

Liberty, Equality, Laicity: Québec's Charter of Values and the Reframing of Politics

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Abstract: The debate around Québec's proposed Charter of Values in 2013 and 2014 occupied the centre of the political, intellectual, and academic attention space. However, this proposed legislation was discussed across Canada on the basis of limited information in view of documents which were only available in French and of the specific historical and political context that remained unexplored. Once set in this context and in light of the manifestos that answered it, the Québec Charter of Values can be seen as an attempt to develop a renewed cultural nationalism in terms of criteria for adhesion and belonging to the Québécois nation. In appealing to values said to be held by Quebecers and establishing a distinction from those who do not share these values of democracy, equality between women and men, and laicity, the Charter of Values has the effect of providing a new framework for democratic politics and the exercise of rights and freedoms.

Keywords: Laicity; secularism; Québec; Charter of Values; multiculturalism; interculturalism; religion; nationalism.

Résumé: Le débat qui eut lieu en 2013 et 2014 à propos de la Charte des valeurs proposée au Québec occupa le centre de l'espace d'attention politique, intellectuelle, et académique. Toutefois, ce projet de loi fut discuté au Canada anglais à partir d'information limitée, vu la seule disponibilité des documents en français et le manque de familiarité avec le contexte historique et politique spécifique, qui ne fut pas exploré dans ces discussions. Une fois replacée dans ce contexte, et à la lumière des manifestes qui y répondirent, la Charte des valeurs québécoise peut être vue comme une tentative de développer un nationalisme culturel renouvelé par l'adoption des critères de l'adhésion et de l'appartenance à la nation québécoise. En faisant appel aux valeurs qui sont dites êtres celles des Québécois et Québécoises et en établissant la distinction de ceux et celles qui sont perçus comme ne partageant pas les valeurs de la démocratie, de l'égalité entre les femmes et les hommes, et de la laïcité, la Charte des valeurs eu l'effet de fournir un nouveau cadre pour la politique démocratique et pour l'exercice des droits et libertés.

Mots-clés: Laïcité; sécularisme; Québec; Charte des valeurs; multiculturalisme; interculturalisme; religion; nationalisme.

The “Charter of Values” occupied the centre of the political debate leading to the 2014 Québec provincial election¹. While the defeat of the Parti Québécois (PQ) government meant the legislative end of the Charter, at least until the next elections, the Charter document and the debate surrounding it nonetheless manifest a moment in the debate on ethnic, cultural, and religious pluralism in the province of Québec, but also a state of the tensions between the cultural rights of majority populations and the religious rights of minority groups. Given a general tendency to frame religious rights as the rights of individuals and to conflate issues related to religion, culture, and immigration, a charter of values that limits and outlines the practices of members of minority cultural and religious groups remains open as an option not only for Québec, but also for other jurisdictions in Canada. What is more, the effects of this proposed legislation and of the political and social debates that both framed it and resulted from it will continue to have impacts on the lives of Québécois, as they would were any similar attempts to be made by other jurisdictions.

Underlying this paper is the position that members of ethnically, culturally, and religiously diverse communities and societies – that is to say, all communities and societies – must understand and develop a position on the “Charter of Values.”² Correspondingly, one of the aims of this paper is to present to an English readership the documents that constitute the Charter as well as the main responses in the debate that took place in the Fall of 2013, texts published solely in French and aimed at the broad public of Francophone Québécois by the Minister of Democratic Institutions and Citizen Participation, as well as by collectives of intellectuals, politicians, and artists through manifestos.

In light of this context, I will not develop a normative position on the Charter. Rather, I will argue that the Québec Charter of Values was an attempt to develop a cultural nationalism by presenting a set of criteria for adhesion and belonging to the Québécois nation. The Charter of Values documents have had the dual function of entrenching already existing behaviours, attitudes, and values, and of extending those values to all Québécois, present and future; in the process, they suggested a renewed framework for democratic politics. I will first present the original documents outlining the Charter of Values as a set of ideological operations. The first is an appeal to Québécois to rally around a set of values said to be held by those who call

themselves Québécois: democracy, equality between men and women, and laicity understood as the neutrality of the state. The second operation is the establishment of a clear distinction between Québécois and others, who it is implied do not share these values and who are marked by their supposed refusal of such values. These “other” Québécois are described as forming two groups: English Canadians, who are perceived as attempting to impose complete relativism at the cost of the historical continuity of nations and cultural survival – even their own; and immigrants, who are free to integrate into Québec society if they agree to take on the very values around which those who already consider themselves to be Québécois are rallying. I will then present responses to this document, which are meant to sway the public more so than the government, before presenting the proposed legislation and showing its meaning as a political action.

Approaching the Topic

Throughout, I will adopt the methods of political philosophy and of the political history of ideas. I will focus on the texts of the following documents, following the logic of their reasons for supporting or rejecting the Charter of Values:

- 2008. *Pour enrichir le Québec*, presented by the Québec Department of Immigration, under a Liberal Party of Québec (PLQ) government;
- August 14, 2012. *Charter of Laicity*, presented by the Parti Québécois (PQ) during the electoral campaign;
- September 5, 2013. “The Charter of Values, a Crucial Step in our Cultural Reaffirmation” (“La Charte des Valeurs, Étape Cruciale de Notre Réaffirmation Culturelle”), a manifesto in favour of the Charter published by Savard-Tremblay *et al.*;
- September 9, 2013. “Our Values Exclude Exclusion” (“Nos valeurs excluent l’exclusion”), a manifesto against the Charter published by Jalbert *et al.*;
- September 10, 2013. “Manifesto for an Inclusive Québec” (“Manifeste pour un Québec inclusif”), a manifesto against the Charter published by Bourget *et al.*;
- September 10, 2013. *Because We Believe in our Values*, a package of documents presented by B. Drainville, PQ Minister (referred to as “the Charter documents”):
 - “Governmental Propositions”;
 - “Orientation Document”;
 - “Long Brochure”;
 - “Short Brochure”;

- September 13, 2013. “Gathering rather than Excluding” (“Rassembler plutôt qu’exclure”), a manifesto against the Charter published by the Independentists for an Inclusive Laicity, followed by their longer document, “A Quebec For All” (“Un Québec pour toutes et tous”), published December 20, 2013;
- October 15, 2013. “A Charter for Women” (“Une Charte pour les femmes”) a manifesto in favour of the Charter published by Bertrand *et al.*;
- November 7, 2013. Bill 60, introduced in Québec’s National Assembly by B. Drainville, PQ Minister (referred to as “Bill 60”).

Interpreting these texts will demand that the ideas they present be related in three different and complementary manners – not chronologically, but rather in response to the logic of the argument. I will relate the texts of the Charter documents to each other, so as to highlight the differences and continuities in meaning in the use of concepts within a text and from one text to the next. I will also relate these texts to the political context to which each responded and which each sought to influence, so as to see the greater public they addressed and attempted to sway in their answer to the question of what ought to be done. Finally, I will also relate the texts to a longer historical context that gives meaning to the concepts used and ideas presented, opening certain possibilities while closing others.

A first difficulty in approaching the Charter of Values is the prevailing assumption that it is a purely ideological document which creates its problem in order to offer a solution, rather than answering a problem that demands the attention of the government. Political discourse in Québec is loaded with such accusations and in the case of sovereignty, for instance, a common response of the Québécois federalist parties is to suggest that the province move on to “the real problems” facing Québec. The Charter can thus appear as a pet project or as a soapbox for a confrontation with the federal government (Ugland, 2014), especially if we take the Bouchard-Taylor report at face value. I will argue here that the Charter of Values is only one piece in a broader attempt at defining Québec’s constitutional framework, and one step in the history of laicization in the province.

The idea of a value code is not new in Québec. Daiva Stasiulis (2013) points out that a broad variety of codes of conduct for new immigrants have been created in Québec, the most notorious being the code drafted by the municipality of Hérouxville. Stasiulis focuses on the code drafted by the city of Gatineau, a particularly relevant case as the city is deeply intertwined

with Ottawa, the national capital (found in the neighbouring province of Ontario, across the Ottawa River) and as it is a city where, in comparison to the rest of the province, a high number of migrants settle every year. Stasiulis sets the distinct approaches of the federal Canadian state and of the provincial state against the backdrop of neoliberalism, relying on international studies of responses to immigration, and defends a thesis focused on the manner in which such codes of conduct moralize immigration itself and makes individual immigrants responsible for their own inclusion.

Although Stasiulis's study is enlightening as to the context of changes in immigration codes, it also exemplifies a second difficulty in approaching Québec's Charter of Values, present in the public and scholarly discourse about the Charter and about broader discussions of multiculturalism and interculturalism. Even in the best research, the central aspect of the matter, religion, is forgotten, and the larger context –the question of laicity – is simply replaced by a focus on another problem – here, *neoliberalism*, or elsewhere, *veils*, culture, or the supposed intentions and hidden agendas of politicians. Furthermore, as we will see in the manifesto published against the Charter of Values in the weeks and months following its original publication, even discourses that criticize the Charter repeat what they denounce in the Charter, in the government's position, and in public opinion: the culturalization and racialization of religion.

In other words, to speak about religious symbols or about veiling does not amount to speaking about religion. Quite to the contrary, when veils become the main focus of discussion about political values, the theoretical and normative context becomes that of personal autonomy and religion disappears almost entirely from the discussion (a problem found for instance in Galeotti, 2015): veils become only superficially tied to religious beliefs and are politicized, becoming a political issue or problem to be solved, without reference to religion itself (Vatz Laaroussi and Laaroussi, 2014). When religion is not taken seriously, it is depoliticized by its transformation into a mere cultural object, or into an attribute of a racialized group (itself understood as cultural), and thus cannot be noticed as being at play, -or discussed directly.

The results of the depoliticization of religion are notably that any individual or group who makes a claim regarding religious accommodation is identified as placing the group before

themselves, thus making religious rights a matter of collective rather than individual rights; that religion is seen as a phenomenon that had disappeared (through the history of European settlement) but that is now reappearing through immigration, and so tied to newcomer “others” who remain strangers (“étrangers”) to Québec’s society; that racialization continues to take place within the debate, without being recognized as such; and that insecurities tied to cultural, political and economic matters are projected onto these religious others. These tensions, present within societies that are religiously liberal and that welcome immigration, take on a particular aspect and meaning in Québec, given its own religious past and its contemporary cultural and political context. What is more, by depoliticizing religion and focusing on symbols or on neoliberalism, there is a possibility of missing phenomena of creation and patrolling of social boundaries that decide on the inclusion or exclusion of persons from the nation (Bilge, 2010), of racialization not only of minority populations, but also of discourses and of the state itself (Bilge, 2013), and of contemporary racism hiding in the guise of the promotion of sexual equality (Bilge, 2012), through which the Québec nation is defined and re-defined.

The Political Context of the Charter and Debate on “Reasonable Accommodations”

On April 7, 2014, the Parti Québécois (PQ) was voted out of office after nineteen months of forming a minority government in the provincial legislature in Québec. This defeat was particularly meaningful as the PQ received its smallest number of seats in the Assemblée Nationale in thirty years, and its lowest percentage of the popular vote since 1970, when it first presented a full slate of candidates. Such electoral results seem to discredit the PQ’s policies, and especially the Charter of Values, as the party repeatedly claimed that a vote for the Parti Québécois was a vote for the Charter. These results also came to confirm the opinion polls that suggested that during the electoral campaign, support for sovereignty for Québec was at one of its lowest points since the birth of the PQ in 1968: the issue of separation from Canada was not at the forefront of most Québécois’ minds, and it might have been felt as irrelevant enough to tilt the balance against the party (Radio-Canada, 2014; Lessard, 2014). As sovereignty becomes less popular and especially less important among the preoccupations of Québécois, another question tied to national identity has replaced it at the forefront of political debates over the last decade: the question of “reasonable accommodations.”

This question has to do with the attitude the state must adopt toward minority ethnic, cultural, and religious groups, when they request or make claims that practices, rules, or laws be transformed in order to respect their rights and liberties, and especially their freedoms of religion and association. The question has undergone significant metamorphoses from its treatment by one party to the next. It was first instrumentalized by the right – the now defunct Action Démocratique du Québec (ADQ) – to offer reasons for a refusal to transform Québécois society, mores, and the primacy of its culture. The Parti Libéral du Québec (PLQ), which was then in government, had attempted to take over the issue without taking a strong position by creating a Commission of consultation on the practices of accommodations tied to cultural differences, known under the name of its co-chairs, Gérard Bouchard and Charles Taylor. While this commission had produced a report that sought to trace a path toward a Québécois conception of laicity and of interculturalism that would not rest on fear and exclusion, its recommendations were not put into practice even though it was close to the position of the governing PLQ.³ Instead, the lack of response to the question of accommodations allowed for debate over reasonable accommodations to continue.

On August 14, 2012, during a provincial electoral campaign, the PQ announced it would introduce a Charter of Laicity, already framed in terms of equality between women and men and tied to the French language. This Charter of Laicity would bar public servants from wearing ostensible religious signs. Pauline Marois, the leader of the PQ, suggested that, for immigrants to Québec: “It is reassuring to know in which society we arrive, in which country we choose to live, with which values we will evolve” (Lebeuf, 2012). She also announced her intention to use the notwithstanding clause should this Charter be deemed to be unconstitutional by the Supreme Court of Canada. And indeed, the federal minister for multiculturalism, Jason Kenney, would warn in September 2013 that the federal government would review and challenge the Charter of Values (CBC, 2013; Leblanc, 2013).⁴

The formation of a minority government by the PQ on September 19, 2012, opened the way to the introduction of such a Charter. On September 10, 2013, Bernard Drainville, the Minister for Democratic Institutions and Citizen Participation, introduced documents explaining how the PQ government would orient each of “the framing of requests for religious

accommodations, the affirmation of the values of Québécois society, as well as of the laic character of the institutions of the state.” These documents include two longer argumentative texts both titled *Because We Believe in our Values* and subtitled “Governmental Propositions” and “Orientation Document,” as well as a long pamphlet, and a short, one-page handout, the only one to have been translated into English.

The Charter of Québécois Values, made up of these documents, led to many responses both by provincial and federal political parties, by associations within civil society, and public figures. The PQ defended the Charter publicly, and asked for citizens to write or phone the government with its reaction, before presenting the Charter as Bill 60, on November 7, 2013. From January 14 to February 20 of 2014, the PQ government held public consultations on the Charter, which allowed members of the public to speak to its contents. On March 5, after many rumours to the effect, a provincial election was called. On March 9, Pierre Karl Péladeau was announced as a star candidate for the PQ and he brought the focus of the electoral campaign to Québec sovereignty rather than on the Charter of Values.

While the Parti Québécois was defeated on April 7, 2014, with the Liberal Party of Québec forming a majority government, the debate around the Charter continued. Questions were asked as to whether judicial opinion were truly sought by Minister Drainville, and this opinion came only after the new, Liberal government was formed. The PQ took its own defeat as an occasion to renew its leadership and to move away from the position of the Charter.⁵ Similarly, the PLQ opted to shift the emphasis away from the notion of values, and toward the question of the symbols to be worn by civil servants: in its Bill 62 on the Religious Neutrality of the State, only the niqab or the burqa (but not the chador) are forbidden as attire for civil servants (Boivin 2015). Following his election as leader of the PQ, Péladeau, reneging on his support for the Charter during the leadership race, suggested that a position close to that of Bouchard and Taylor (that only judges, prosecutors, police officers, as well as teachers, should be barred from wearing ostensible religious symbols) would be most appropriate to avoid divisions⁶. Moving away from the debate around the Charter of Values and the deep divisions it created within his party, Péladeau focused on the question of sovereignty, creating an institute to research its future possibility. Notably, Bernard Drainville had to retire from the leadership race: his candidacy as

well as the Charter he continued to champion failed to receive the necessary amount of support within the PQ.

The debate about the relationship of the Québécois majority to religious minority groups did not come to a close, but it did take on a new form. The Coalition Avenir Québec (CAQ), heir to the ADQ, suggested a pact for new migrants which would grant the government the right to expel those immigrants who did not adopt Québécois values. Grounds for expulsion included the failure to learn French and arguing against or denigrating Québécois values. Expulsion would thus deny the affected migrants permanent residency. (Robillard, 2015; Jolin-Barrette, 2015) In a less spectacular manner, the PLQ, once in government, opted to focus on the question of immigration rather than religion. However, in the months that followed, a hit-and-run that targeted members of the military, and a shooting on Parliament Hill, both committed by individuals connecting themselves to the Islamic State, pushed the debate around Québécois identity and its relationship to religion toward the question of radicalisation and of violence based on religion. This shift relied upon and reinforced the continuing ties between religion and violence in public discourse, already well established since al Qaeda's attacks of September 11, 2001 on the United States.

The Historical Context and the Conceptual Vocabulary of Laicity

As the question of religion is addressed in the Charter of Values through the problem of laicity, it is important to understand the different conceptualizations of *laïcité* in France and in Québec, and secularism elsewhere. According to Marcel Gauchet (2001), the difference between the two political concepts and practices reproduces the difference between Catholicism and protestant Christianity. Laicization could only occur where one denomination dominated – and specifically Catholicism – and where a public sphere could only be created through a strict separation from the authority of Rome, through a political struggle against those who would maintain this authority. Secularization instead allowed for national churches to find a place within the public sphere, where religion took on a modern meaning as a result of its implication in all domains of collective activity, alongside the state and in the areas it left empty rather than against it (Gauchet, 2001: 20). As a result, although there is a common tendency, found notably in Charles Taylor's work, to translate "*laïcité*" by "secularism," there remains a distinction

between the two phenomena and this paper will use throughout the word “laicity” rather than keep the French word *laïcité* or mistranslate it as “secularism.”

The idea of laicity originally bears a personal meaning: a laic is a believer who is understood in contradistinction from a cleric, or religious official. The Catholic laics are thus believers whose activities lead them to act both inside the Church, where they attempt to find greater influence, and outside of the scope and reach of the Church – in the state, for instance, as was the case of young Catholics like Pierre Trudeau and Claude Ryan. Similarly, a laic state is one that defines itself *outside* the religion, but in a context where its own population tends to belong to this religion, leading this same religion to inform the basic principles of the state and create a heritage.

However, the attitude of the Church, or more generally of religious officials where there exists no such hierarchy, adds a further complexity to the meaning of laicity. Clericalism is the attempt by religious officials to have an effect on politics; it tends to breed anticlericalism, which is quite simply the opposition to clericalism. Anticlerical laics would thus be believers who seek to act within their religious or political communities, on the basis of the principles of their faith, all the while fighting against the creation of any official influence of religious officials. The Cité Libre group in Québec, which included Trudeau, was thus anticlerical because it opposed the fear the Church and the state both bred among French Canadians. Cité Libre’s reference to Catholicism tended to become more personal, given the ties between the political power they were opposing and the hierarchy of their own Church. The laicity of the state is then best understood as describing diverse degrees of deconfessionalization of public institutions (their separation from the Church), with this process being named laicization.

These suggestions differ slightly from those of Jean Baubérot, who is quoted by the Indépendantistes pour une laïcité inclusive. Baubérot defines laicity as the harmonisation of three principles, on the basis of the specific conditions and contexts of a given society: freedom of conscience, of religion, and of its practice; non-discrimination, be it direct or indirect; and the autonomy of the political realm and of civil society from religious and philosophical norms. In focusing on this last principle, Baubérot adopts a position that is close to that of John Rawls, according to whom moral, religious, and philosophical doctrines must be kept out of politics and

public debate, which should instead take place on the basis of principles that could potentially be accepted by any member of the society or any party to a decision (Rawls, 1993).

Laicity can refer to various degrees of separation of political life, debate, and institutions from the Church, following a collectively recognized need to protect politics from various forms of religious action – rather than the attempt, closer to secularization, to protect religion from the state and so to create state neutrality for the sake of freedom of religion. Laicism goes further by aiming for integral laicity, expelling religion from public life and from the state entirely, or to oppose any political use of religion. This extreme form of laicity is born out of a desire to combat the Church or religion itself (Lamonde, 2010: 64-65, 78, 84, 96, 122-3, 128-9, 183).

Outlining Values for Québécois

At its origin, the Charter of Values was meant to be a Charter of Laicity. Its evolution led instead to an expanded focus on values that are said to be “our common values” or “Québécois values.” In other words, the value of laicity on its own proved to be insufficient to the ends pursued by the government. The first puzzling element of what was, after all, named a “Charter of Québécois Values” would be that only three main values are officially listed.⁷ The first is the primacy of French, which is not the focus of the documents and is not central to their argument. The second is state laicity, separating religions from the state, establishing the neutrality of the state toward religion, and ensuring equality between “les citoyennes et citoyens” in terms of religious beliefs and moral and philosophical convictions. The third, already hinted at in this untranslatable use of French, is the equality between citizens of both genders, following the struggle for the rights of women and now extending to all women, beyond their origins and beliefs, so that accommodations can only ever be made if a person respects this equality. The assumption here is that women who have arrived in Québec through immigration or who belong to non-Christian faiths are not yet free – hence the need for a Charter.

As many have already made clear, and as does the Charter itself, the value of gender equality is already inscribed in the Québec Charter of Rights and Freedoms (since 2008, twenty-six years after it was included in the Canadian Charter following the struggle of feminist groups). In the Charter documents, a chronology is presented along with these values, from 1964 until

2008, outlining the creation of the Department of Education – when education was taken on by the state, from the Catholic Church – as well as the different laws that led to the equality of women, around marriage, contraception, homosexuality, and abortion, as well as the de-confessionalization of school boards. The same chronology is also presented in more detail in the “Orientation Document” (Gouvernement du Québec, 2013b: 11; cited as “Orientation Document” from this point on).

In other words, the story we find in the documents explaining and justifying the Charter is the story of equality between men and women. According to the narrative present in the Charter documents, the Catholic Church was responsible for this inequality, and, while Québécoises are equal to Québécois⁸, it is now other religions that are responsible for the continuing inequality of women. The Charter document presents a daring ideological operation: a re-hierarchization and re-organization of the main values to be pursued by the Québec government, and a re-interpretation of its own history and of that of the society it serves.

According to the Charter of Values, the state must be neutral, both in its institutions and in its representatives. Those who represent the state, from civil servants to elected officials, may currently show their religious beliefs at work, but would henceforth need to display religious neutrality in their behaviour *and* in their appearance, just as they must already display political neutrality. Here, as elsewhere, religious belief is brought on the same level as political belief and moral and philosophical convictions, or indeed of any other facet of a person’s identity that may not be grounds for discrimination (the example of accommodations for seeing-eye dogs is used in the “Orientation Document” (9).

There exists one exception, in terms of the neutrality of institutions: the historical heritage of Québec must be preserved, and so the crucifix in the Assemblée Nationale and the cross on top of Mount Royal would be kept in place. School and town names would also not be changed. Indeed, despite being seen as having played a role in the oppression of women, the Catholic religion is also perceived to have played a fundamental role in Québec’s history and is part of its heritage: “Rich with its history, Québec is proud of its heritage which explains where we come from and what we are today. It is important to transmit it to the young generations and to any person coming from elsewhere, so that they may in their turn enrich themselves with this

heritage.” (“Long Pamphlet,” Gouvernement du Québec, 2013a: 3) The rationale then extends to the need to protect the cultural and historical heritage of Québec – to which religion is relegated –, even as the value of laicity is upheld.

The second puzzling aspect of the Charter is the context out of which it emerged, that is, as a product of the Ministry of Democratic Institutions and Citizen Participation. Both laicity and equality are thus framed implicitly by a larger reference to democracy, which as a main focus is absent from the Charter documents. It is presented as leading to a duty of neutrality so as to ensure independence and tolerance in governance, as well as the possibility for every citizen to be able to recognize herself or himself in the state: laicity as neutrality is essential for democracy as “the state takes its legitimacy from the will of the people, without distinction in religion and with respect toward the beliefs and non-beliefs of all citizens – women and men.” (“Orientation Document,” 2013: 8) We find, in the conclusion of the document, another reference to a general will that is reasonable for all, as opposed to majority rule (“Orientation Document,” 2013: 21).

From this duty of neutrality come the abstention from proselytizing (duty of reserve) and the absence of any manifestations of religion in the space of the state (duty of neutrality). The anti-clericalism of Québec’s Quiet Revolution is indeed threatened by the reintroduction of a religious character in public institutions through ostentatious symbols. The assumptions against covering one’s face are that there might be a threat to the safety of others, that there might be an intent of fraud against public services, or that a student might not understand what is being discussed in class and not be able to show it through their facial expressions (“Orientation Document,” 2013: 18).

The *Orientation Document* states that Québécois – women and men – want to live within such democratic institutions fostering cohesion, without however having set any rules to ensure the possibility of such a democracy, hence the challenge, tension, imbalance, and crisis to which the government is responding, and hence the need for rules respecting this desire of Québécois. Thanks to the Charter, the state would be in a position to strengthen civic bonds (*le lien civique*) (“Orientation Document,” 2013: 16) based on the choice that *must* be made to gather as a collectivity around the religiously neutral state – the choice of civic bonds over having religious differences divide the collectivity.⁹

However, contrary to the constant suggestion by political scientists and analysts interviewed in mass media, as well as by concerned citizens on the very phone-in radio shows that have created the climate of crisis that led to the document, the proposal of the Charter cannot be explained by the sovereignist agenda of the Parti Québécois. The documents surrounding the Charter, including the long brochure that served as its official vehicle until it was brought before the Assemblée Nationale, refer to the declaration on the common values of Québec society which is part of the document *Pour enrichir le Québec*, which was added to a form titled “Demande de certificat de sélection du Québec” as early as 2008, when the Liberal Party and Jean Charest formed the government, and when Yolande James was the responsible minister. This document *must* be signed by people immigrating to Québec. Indeed, that document falls under the Department for Immigration and Cultural Communities, which also oversees the Office québécois de la langue française and is tasked with ensuring that French remains the primary language in use in Québec.

Already in 2008, employees of the Québec Department of Immigration were tasked with informing newcomers about Québec values, and notably – before any discussion of these values appears in the document – about equality between men and women. The values are listed in this document as: the French language – to which corresponds a duty for newcomers to learn the language; freedom and democracy; laicity; pluralism; the rule of law and non-discrimination as laid out in the Québec Charter of the Rights of the Person; and, again, equality of rights between women and men. The document concludes with the need to exercise rights while respecting others, collective well-being, and Québec’s democratic values, all leading to the specific rights to free expression and free choice of lifestyle, opinion, and religion. The values are then repeated on the form that is to be signed, the signature showing that the new immigrant to Québec accepts to live according to these values and to learn French.

In other words, the Charter brings only few changes to the government’s practice, all focused around the interpretation of laicity and the practices surrounding it. The underlying assumptions and values themselves remain the same, especially the place of equality between men and women. The PLQ’s limitation of their own legislation in 2015 to ban only niqabs and burqas is consequently coherent with the state’s established practices. What is more, five years

before the website <http://nosvaleurs.gouv.qc.ca> was created for the purpose of publicizing the Charter, there already existed www.valeurscommunesduquebec.gouv.qc.ca (active throughout these debates, and still active in 2015, and which pointed to the Québec Ministry of Immigration and versions of the 2008 document in seven languages).

The one ideological operation that takes place in the context of the 2013 Charter of Values can be described as taking place in three parts. First, laicity is placed side by side with equality between men and women and the primacy of French, and these values are presented as *sacred*, alongside the sacred character of churches, synagogues, and mosques. Second, in the “Orientation Document,” laicity is attached to the goal of creating equality between men and women. Third, rules for religious accommodations (without any reference to culture or to interculturalism) are laid out, so as to help new Québécois integrate into the workforce and understand Québec society and to help all Québécois live together. These rules then focus on the outward appearance of persons, as pertains to the need for the state to manifest its *laic* character.

This ideological operation is further set in the context of a need to assemble, or gather, around “our” common values, with an “us” defined by adherence to the very set of values that is to make this gathering possible: welcoming immigrants is only possible against this previous gathering around values. Those who gather are those who welcome and include others, who are invited to join them following the already agreed-upon social contract. Also, whereas the word “society” is used most often to speak of the body that is welcoming and integrating – newcomers will then join the society by explicitly signing on to the social contract – there is equivocity between the concepts of collectivity, society, and nation. Indeed, the Charter is meant to foster the necessary conditions for a cohesive *nation*, through the institutions of the state, as well as the common good of the “société Québécoise,” which is increasingly multiethnic (“Orientation Document,” 2013: 5), and to allow the collectivity to gather around a neutral state.

Different Orientations: The Responses to the Charter of Values

The release of the *Because We Believe in our Values* documents led to a series of responses from the public, as they were meant to do. Consultations were first led through a phone-in service or a website created by the Ministry of Democratic Reform and Citizen

Participation: 25,380 emails were sent and 925 phone messages were left, and the website created to explain the project was visited 160,000 times. While its results are not an adequate indication of overall popular support for the Charter of Values, they do indicate the position of those who felt strongly enough about the Charter to have their opinion registered. These results were presented as follows (Radio-Canada, 2013b):

- 12,443 comments were judged to be favourable to the Charter;
- 5,606 were judged to be favourable, with some nuances – they tended to be favourable to extending the Charter to more aspects of social and political life;
- 527 were judged to be unfavourable, with some nuances – with agreement on a specific aspect of the Charter, or to remove the crucifix from the Assemblée Nationale;
- 4,154 were judged to be unfavourable to the Charter.

Since the comments were not made public by the government, the analysis of such reactions cannot go beyond simply stating how it decided to present the comments. What is more, this analysis will not cover the further consultations on Bill 60 that took place in January and February of 2014, nor will it address the media coverage, since such a study would require a different methodological approach and analytical focus. The analysis will not include the responses of individuals, or of groups, organizations, and institutions that pre-existed the Charter and that have other reasons for being (such as the Federation of Municipalities, political parties, the Commission des droits de la personne et des droits de la jeunesse, the Federation of Québec Women, or the Assembly of Catholic Bishops of Québec).¹⁰

I will focus on a few responses from groups of individuals and intellectuals who came together specifically for this occasion, in some cases creating an ongoing, loose organization (as in the case of the Intellectuals for an Inclusive Laicity), and whose existence revolves around support for or opposition to the Charter of Values. The very creation of these groups illustrates the impact the Charter of Values had on civil society and on a political debate focused on a series of issues it presented or avoided, outside of an electoral period, seemingly solely for the sake of the proposed legislation or of opposition to it. However, while some of these groups have presented longer studies to the consultation commission in January 2014, only their original manifestos, which were presented in time to potentially affect the outcome of Bill 60, will be studied here. Manifestos, after all, are addressed to the public and seek to convince them; they

serve a clearly political function. As opposed to formal studies (the “mémoires” presented to consultation commissions), which are presented to experts and legislators and are not likely to be read by other publics, manifestos are central to the broader public debate and set clear lines of demarcation between positions and groups.

Supporting the Charter of Values

Among the first responses was a manifesto entitled *The Charter of Values, a Crucial Step in our Cultural Reaffirmation* (Savard-Tremblay *et al.*, 2013). It was accompanied by 38 signatures, those of a few University professors, but chiefly those graduate students in sociology, law, philosophy, and other social sciences. The makeup of this group is not without significance: it points toward a new generation of conservative nationalist intellectuals reacting to the civic nationalism developed by the generation of their professors and to the failures of the sovereigntist movement, as well as to the association between sovereignty and the left.¹¹

This collective presents the Charter as “firm, but just” in its transformation of Québécois identity and of the culture of the “historical French majority” into the doctrine of the state and the actions of the government, a continuation of Bill 101 and of the policy of cultural development adopted by the PQ government in 1978. This Québécois culture allows for convergence and a common location for all to meet and exchange, leading to a common sense of belonging and a shared vision of the common good. Such a policy, as relayed in the Charter of Values, is said to be necessary because a political regime is “imposed upon Québecers, that is, that of a province that is losing its means in the midst of a whole that perpetually negates its national specificity” (Savard-Tremblay *et al.*, 2013). This negation is symbolic, through the duplication of symbols by the federal government which seeks to define the Québec nation and imposes its Constitution and the notion of individual rights, but it is also said to take place through “judicial assaults” against the Québécois state.¹²

As a result, the Québécois state cannot fulfill its function of allowing for a “living-together” and a “civic pact” on the basis of the rules it might create, and sees its own community, increasingly in a position of minority, become fragmented and divided in the name of personal emancipation. While these individual rights and freedoms are important and must be defended, they must also be counter-balanced by “new policies for cultural convergence” (Savard-

Tremblay *et al.*, 2013). The Charter is thus a matter of national interest, and not of fear or of withdrawal toward a provincial identity. It is said to be able to lead beyond the search for consensus, which can only lead to compromise and lacks firmness, to allow Québécois to “faire nation,” to make themselves into a more complete nation – “a fundamental step in a grand process” (Savard-Tremblay *et al.*, 2013).

Another letter of support for the Charter, *A Charter for Women*, was written and signed first by Janette Bertrand, an ubiquitous public figure who has written many television series and hosted the popular talk show *Parler pour parler*, and then by nineteen more women, who all added “Janette” as their middle name; the group is consequently known as “Les Janettes.” (Bertrand 2013) The letter is brief, consisting of seven sentences. Written in the first person – ostensibly referring to Janette Bertrand’s life, but also implying that each signatory has followed the same course – it recalls the struggle for equality between men and women. It then affirms that freedom of religion is threatening this equality, since men have always and continue to use “religion in the goal of dominating women, of putting them in their place, that is to say underneath them.” The letter then associates the Charter with the right to vote acquired by women, which allowed them to free themselves from the domination of the clergy and of the government. Non-Christian, or at least non-Catholic religions would thus be a third force of domination.

While the content is limited and presents a series of statements rather than an argument, it is the action undertaken by women of supporting the Charter that is important here: the letter was titled *A Charter for Women* (“Une Charte pour les femmes”). Most of the signatories were from the arts; some, such as Denise Janette Filiatrault and Julie Janette Snyder, have a very high public profile. Among the other signatories, Louise Janette Mailloux had also signed the manifesto *A Crucial Step in our Cultural Reaffirmation*. Several women from countries associated with Islam also signed the letter and presented themselves as originating from these countries, adding them to the list after their name: Abba Janette Farhoud (Lebanon), Naïma Janette Lamghoupi (Morocco), Rakia Janette Fourati (Tunisia), alongside Rivkah Janette Katz, from a Hassidic family in Montreal. Another Janette, Djemila Benhabib, whose parents were Algerian and Greek Cypriot, was already an important public and intellectual figure. She was

particularly important in the debate around the Charter of Values but had also been involved in debates around Islamic veils in general, long before the Charter was first discussed (see Benhabib, 2009; Benhabib, 2011).¹³ She was then a candidate for the PQ in 2012 and was present alongside the party's leaders when the idea of a Charter of Laicity was first announced to the media. Her presence throughout this debate made her into an exemplary figure, as a woman who has authority to speak about Islam and how it affects women, and so added authority to the Charter of Values itself.¹⁴

Rejecting the Charter of Values

However, the support of this particular group of women did not go uncriticised, given the diversity of feminisms in Québec. A debate did take place among feminists, tied to the wider debate around attitudes toward veils and to debates between atheist feminist and Muslim feminists (Vatz Laaroussi and Laaroussi, 2014), without however affecting the wider public debate around the Charter of Values. One instance of a more marginal contribution to the debate is the letter published by Les Sorcières, a radical feminist collective, who attempted to define a position in solidarity with Muslim women while remaining critical of patriarchal religions: "The Damned Charter" (Les Sorcières, undated). Their reaction was to the letter of the Janettes, rather than to the Charter of Values itself. They characterize both as racist as well as sexist in that they allow the state to control the bodies of Muslim women and focus only on Muslim religious symbols. They also refuse the language of choice and constraint, as well as the notion that Muslim women are to be liberated (see on this topic Abu-Lughod, 2013 and Bilge, 2012), arguing that it is rather the Janettes and the state who are attempting to establish a constraint on Muslim women.

The two manifestos presented above are particularly meaningful in the debate around the Charter of Values in that they echo the concepts and arguments presented to defend this Charter, and add further justifications to them. Three more major manifestos were also published in the general mass media.

Gathering rather than Excluding contrasts with the manifestos mentioned above in that it was written and signed by the sovereignists who had developed a civic nationalism against what they perceived to be an ethnic nationalism, seeking to include Québécois of all origins in the

sovereignist project.¹⁵ The Independentists for an Inclusive Laicity, apparently created when a Charter of Laicity was still being debated, but before the Charter of Values was first presented, published a declaration titled *Gathering rather than Excluding*. (Indépendantistes pour une laïcité inclusive, 2013a; Indépendantistes pour une laïcité inclusive, 2013b) These independentists are or have been for the most part tied to the Parti Québécois or Bloc Québécois (ten of twenty), militants for independence (six of twenty), or are academics or writers. They were in favour of laicity, but against the Charter of Values, which they see as turning laicity into an instrument and so as misrepresenting it. Focusing on the interdiction for public service employees to wear religious symbols, the Independentists reject above all the values of the Charter as “allegedly Québécoises”; they reject the Charter on that fundamental basis, but also because it leads to a bad strategy toward independence, and they favour the outcome of the Bouchard-Taylor commission (Bouchard and Taylor, 2008) as a simpler solution.

Their declaration mostly consists in a reinterpretation of the concept of laicity and of the duties of reserve and of neutrality. They refuse the idea that passively manifesting a religion – a basic right recognized in the Universal Declaration of Human Rights – would convert anyone, be it in schools (where banning it might instead foster intolerance) or in hospitals. They argue that rather than creating further equality between women and men, the main effect of the Charter of Values would be to bar women from employment in these sectors, and would go against the Québec Charter of Rights and Freedoms. It would be unsuccessful in making women abandon the veil; and regardless of the focus on the veil, the emancipation of women has always been made possible through education and economic independence – and so through access to employment. In addition to misunderstanding laicity and working against its own objectives, the Charter of Values also has the effect of dividing the very population it is meant to unite, as well as dividing independentists, and creating a situation in which those who feel that the Charter discriminates against them will turn to federal laws and the federal Charter of Rights. In other words, the Charter of Values would reinforce the confidence of non-Christians in federalism, turning them away from the independence movement.

The presence of Maria Mourani, a woman also from a country associated with Islam, was central to the document. Mourani, born in Ivory Coast and of Lebanese origin, had been expelled

from the Bloc Québécois for speaking against the Charter of Values on September 12, 2013, one day before signing the letter (her picture accompanied the text of the manifesto in *La Presse*). (Radio-Canada, 2013a) Adding to the stated arguments, she illustrates the divisions the declaration bemoans and presents an image that comes to counter that of Djemila Benhabib, as a woman who also has authority to speak about Islam and who, on the same basis of personal experience, opposes the Charter of Values.

The two other manifestos critical of the Charter of Values chiefly mobilized established intellectuals – from journalists to academics – rather than students, politicians and civil servants, or artists. As such, they are more directly in line with the main orientations of the philosophical field, sharing much with the theories of John Rawls, Will Kymlicka, and Charles Taylor whom most of the signatories have studied and, in some cases, continue to teach or even to elaborate upon. The 100 Intellectuals against the Charter project, in *Our Values Exclude Exclusion* (Jalbert et al., 2013), present 14 original signatories – one of whom, Michel Seymour, was also one of the Indépendentistes for an Inclusive Laicity – who define a position clearly set against the Charter that resembles on many points that of the Indépendentistes, but does not make a reference to sovereignty or strategies toward it. Their reference, instead, is to the contemporary left: the struggle against domination and inequality.

The manifesto titled *Our Values Exclude Exclusion* begins by attaching to the values of equality between men and women and of laicity of the state those of justice, of emancipation, and of the refusal of racism, stigmatisation, and all forms of domination and inequality. Such values are not specific to Québec, nor to the West. Equality, as they conceive of it, also includes cultural and religious equality, and is tied to empathy and solidarity, rather than to fear, insecurity, and the feeling of a loss of bearings. What is more, the manifesto presents all societies as inherently conflictual; as a result, the Charter of Values is a misguided attempt to create a society without divisions or conflicts.

Against these values, the Charter is said to be an authoritarian attempt at imposing secularization and ensuring cultural hegemony. It thus misrepresents laicity, which is rather based on the universal integration of all citizens into the state, and on the neutrality of state institutions. Both processes are meant to “guarantee a life in common in the respect of the

spirituality and of the freedom of conscience of each.” Instead, the Charter of Values confines some women to the spheres of domesticity and community, and misrecognizes the ways in which they are situated within relationships of power and of production, aggravating their situation.

Placed in the middle of this argument concerning the meaning of values at the centre of all political life, we find what these intellectuals believe to be at the origin of the Charter: the PQ government’s inability to be sovereign toward banks, the media, the mining and oil industries, and other economic powers, and its focus on fiscal conservatism and short-term economic concerns, render it unable to find support in the electorate. As a result, the PQ is said to be using the Charter of Values as a wedge issue to divide the left and to gain support from the right. (Jalbert et al., 2013)

While this manifesto situated its arguments squarely on the left, appealing to themes tied to non-domination, anti-capitalism, and anti-neoliberalism, like the other manifestos (unfavourable or not) it remained general in its response, addressing the spirit of the Charter of Values and guessing at the intentions rather than focusing on its text and consequences.

The *Manifesto for an Inclusive Québec* – its title echoing a series of manifestos published in the preceding years under the title of “Manifeste pour un Québec X” and specifically “Manifeste pour un Québec solidaire” (Aktouf *et al.*, 2005) – was the longest of the manifestos and presents a detailed criticism of the Charter (Bourget *et al.*, 2013). It was published in the cultural newspaper *Voir* rather than in the mainstream media (such as *La Presse* or *Le Devoir* where the others could be found) and would eventually gather 265 signatories.

While a guess as to the intentions of the government is presented at the onset of *For an Inclusive Québec* – exploiting fears as to the survival of the Québécois identity in the context of requests for accommodations from immigrants depicted as inflexible – the rest of the text takes the explanation of the Charter of Values and the arguments for it at face value. The manifesto addresses four issues. The first is the incoherence present in the Charter. Even though the Charter documents defend the need to maintain a crucifix in the Assemblée Nationale for its symbolic value, these documents also the symbols of minority religions are stigmatised by the Charter documents. What is more, Minister Drainville, in his statements explaining the Charter, justifies

its existence by the need to created guidelines for accommodations, even though established practices already exist and were outlined in the Bouchard-Taylor. Finally, the Charter is incoherent in that it celebrates Québec's historical relationship to religion, while associating freedom of religion with the Canadian multiculturalism rejected in the name of interculturalism, thus undercutting its own assertions of respect for freedom of religion.

A second issue has to do with the exclusionary effects of the Charter: exclusion from work in the public service; from employment in general, given the unemployment rates among immigrant communities; from community activities and sports; and from the political community. The fear of the other is the third issue attached to the Charter of Values: the manifesto explains that the Charter reinforces such fear and feeds upon it, while at the same time refusing the moral equality of all citizens and their belonging to the political community. While the Charter only addresses culture and religion, it draws upon the already existing association of skin colour and facial traits with culture and religion; it is on this basis that *For an Inclusive Québec* calls the Charter xenophobic. What is more, most of the burden of the Charter of Values would be placed on women, whose freedom of religion and belief must also be respected. Finally, the Charter of Values is said to create a slippery slope, beginning with the attempt to hierarchize fundamental values in a context where there exists no clear social consensus as to what ought to be these more fundamental values. The Charter of Values is "A simple pretext seeking to impose certain values, a certain conception of religious practice, necessarily those of an artificial majority, at the detriment of diverse, fundamental, rights of minorities" (Bourget, Rémi, *et al.* 2013) while the very reason for being of Charters of Rights is to protect the rights of minorities against the majority.

The conclusion of this manifesto is that exclusion, ostracism, and rejection cannot create harmony. Rather, culture is to be celebrated and protected only through funding for its practice and for education, and through its capacity to integrate others and to create social mixing, the two existing Charters being sufficient to protect Québécois values, and by having governments focus on the "issues that truly threaten the social fabric, such as the economy, employment, culture, justice, and education" (Bourget, Rémi, *et al.* 2013).

It is worth noting that both declarations in favour of the Charter argue on the basis of core values balancing out individual rights and freedoms, while all three manifestos against the Charter appeal to individual rights and freedoms. An observation can be made here: the opponents to the Charter of Values appealed for the current framework of individual rights to be maintained against the strengthening of the collectivist framework, but also appealed to the collectivist principles of their adversaries, in order to convince them that this particular Charter went against their own goals. We can wonder if they might have undermined their own argument by giving legitimacy to collectivist principles; or if they might have lessened their more focused appeal to the principles of others by giving more weight to their own individualist principles. While it is difficult to evaluate the effect these manifestos might have had on the legislation and on public opinion – and whether they had any effect at all is not the question here – a reading of the proposed legislation will reveal that few changes were made to the Charter of Values from its presentation to the public to its incarnation as Bill 60.

Legislating on Values

Following these responses, both private and public, Bernard Drainville, the Minister for Democratic Institutions and Citizen Participation and champion of the Charter, introduced Bill 60 under the name: “Charter Affirming the Values of Laicity and of Religious Neutrality of the State as well as of Equality between Women and Men and Framing Demands for Accommodations.” The Charter thus moved away from the notion of “Québécois values” and toward a more specific approach. While very little changed in the time separating the publication of the original documents and this bill, further attention was given to details of implementation as well as to the general presentation of the proposed legislation.

Providing a Framework for Legislation

The changes to the constitutional framework are made explicit in the explanation that precedes the text: the bill not only introduces a new Charter, but also modifies the Charter of Rights and Freedoms of the Person. This modification is not limited to changes in the articles of the Charter of Rights and Freedoms; indeed, these rights and freedoms are said to be framed by four sets of values (to be explained below), and so to be interpreted and limited in accordance with these values. In other words, three levels of constitutionality were defined through Bill 60:

legislation passed in the Assemblée Nationale, which must respect the Québec Charter of Rights and Freedoms of the Person, the application and interpretation of which must respect the Charter of the French Language and the Charter of Values. In other words, the PQ affirmed that the Charter of the French Language already frames and trumps not only common legislation, but also individual rights, and that the Charter of Values would find a similar place. This logic must be understood in terms of the debate it seeks to end, and which has to do with religious and cultural accommodations. Since requests for accommodations are made on the basis of fundamental rights, tensions are created in a constitutional order which does not place an obvious primacy on any one element. As a result, the Charter indicates that the PQ government felt that it was necessary to establish a list of priorities among the values at the core of the Québec nation.

It would be easy to jump to the conclusion that this list of priorities is meant to place limits on individual rights, which would be subordinated to collective rights. However, to understand the Charter of Values in this manner would give insufficient attention to the collectivism of Québec's constitutional framework. Indeed, the Charter of the French Language has to do with the linguistic and cultural rights of the majority group – Francophone Quebecers – in relation to those of minority *groups*, not of minority individuals – Anglophone Quebecers (seen as part of the English Canadian nation) and ethnocultural and linguistic groups (who it is assumed would most likely decide to learn English over learning French). Just as language is collective for Francophone Quebecers, it is collective for Anglophones and Allophones. Similarly, the Charter of Values addresses the values of the majority group – Quebecers, who have set aside religion in the public sphere – against the religious values of minority groups, values which are not set in this debate as personal choices, but rather as collective practices. The debate is not framed in terms of religious rights or of the presence of religion in the public sphere; rather, it is framed in relation of the relationship of the state to the different *religions*, and not to individuals or to the behaviour of individuals.¹⁶ The collectivism of Québec politics is thus properly understood not merely as the precedence of collective rights over individual rights, but rather as the view that politics is about groups, such as nations and communities, as much as, if not more than it is about individuals. Such collectivism makes it possible to affirm language and laicity as values that are political, that exist at the same level as equality between women and

men (understood as groups, as genders) *and* that take precedence over the right of the individual members of these communities.¹⁷

Prioritizing Values

The list of values to be prioritized by the Québec state serves a function of public justification as well as procedural justification. However, a certain amount of confusion is present in the legislation, as the Preamble this Preamble lists five “purposes,” while the explanation of the legislation lists four values – two lists that depend on one another. The purposes include: first, the clarification of the relationship of the state toward religions; second, defending the value of equality; third, the need to put measures in place to ensure these values are respected; fourth, the need to set out signposts for (mostly religious) accommodations; and fifth, highlighting the importance of the rights and freedoms of the person. More specific content is given to the first two purposes by the four values: equality of women and men; the primacy of French; the relationship between the state and religions; and the historical and cultural heritage of Québec.

The first value, the equality of women and men, is placed above all other forms of equality and explains both the content of the notion of equality, as well as its place relative to other values. As a consequence, it appears as more fundamental, and as taking primacy over, other rights and freedoms. Should there be a conflict between the equality of women and men and non-discrimination on the basis of race or religion, or freedom of religion, the former would then be given precedence every time. This bill consequently provides a clear basis for limiting freedom of religion and of association on the basis of preserving the equality of women – a clarity that is not already obvious in the Charter of Rights and Freedoms, even though the equality of women and men is clearly stated therein.

Second, the bill places the primacy of French above all other rights (save equality between women and men – although it is difficult to imagine a conflict between these two values). While this primacy was not explained in the orientation documents – it was simply placed alongside other fundamental values – it becomes obvious in this context of framing the application of the Charter of Rights and Freedoms of the Person. As a result, the French language cannot be contested on the basis of Charter rights or freedoms.

Third, the bill presents the separation of *religions* and the state, the religious neutrality of the state, and the laic character of the state, as three separate characteristics, and as also framing, coming after the previous two fundamental values. This formulation makes it clear that the conflict in Québec is not understood in terms of separation of Church and State. Indeed, the provincial state had already relegated the Church to the private sphere, far from any public institution – be it through influence on government, elected officials, and legislation, or through participation in institutions of public interest such as schools and hospitals. Rather, the conflict is understood in terms of the need to isolate the state from the influence of any and all religions.

Finally, a fourth set of values is designated as a framework for rights and freedoms, as well as all provincial legislation. It can be better understood through an elision, in the long sentence which presents the aim of Bill 60, of the list of three values already mentioned:

“The proposed legislation also has the goal of specifying, in the Charter of Rights and Freedoms of the Person, that the fundamental rights and freedoms that are provided therein are exercised [...] while taking into account the emblematic or toponymical elements of the cultural heritage of Québec which bear witness to its historical journey” (Assemblée Nationale, 2013).

While this precision addresses the debate as to whether the crucifix ought to be kept in the Assemblée Nationale, it also has a broader significance. Perhaps significantly, it presents a contradiction in that the crucifix was introduced by Premier Maurice Duplessis, whose close relationship with the Catholic Church was the very object of the first laicisation of the Québec state in the 1960s. It also presents the crucifix, which has not moved from the Assemblée Nationale since then, as more important in Québec’s historical journey than the Canadian flag, which has come in and out of use depending on the makeup of the provincial government and its relationship to the federal government. More obviously significantly, this precision creates a situation in which the signs and symbols of Québec’s history are seen as more fundamental than Charter rights. As a result, Charter rights cannot be invoked, for instance, against official practices that are tied to Catholicism – celebrations around Christmas, holidays at Easter, local celebrations –, or against the names of towns and schools, which often refer to saints. Since Québec here is understood in cultural terms, the equivocation between province, nation, people, and culture mentioned above continues to hold: the crucifix attests to the longer history of Québec culture.

This fourth element also implies a reference to Québec culture as a culture of reference, into which newcomers are to be welcomed, to which they are to contribute, and which they are to join and enrich and take on as their own. This intercultural model was already at the centre of the recommendations of the Bouchard-Taylor Commission; however, here it is not a civic culture with a common language for public exchanges that is the subject of the legislation, but rather a very specific cultural history, finding its roots in the Catholicism that defined French Canadians.

With this appeal to Québec's cultural history and to the primacy of the French language, the Charter of Values presents a collective vision of politics that serves as the framework for the rights of the person. Consequently, the Charter of Values does not simply privilege specific values; it also privileges a specific political and cultural ontology. The state stands in front of religions, defined not by their hierarchies but by communities of the faithful. It stands in front of linguistic communities, and channels immigrants toward it in order to defend its own language against the language of the majority of North Americans. It stands in front of religions and cultures that are presented as creating inequality between men and women, undermining their unity. And it is the product of a specific cultural and political history, an outgrowth and a tool for a nation, which can continue to accommodate its new members as they find their own way of coming to belong to this nation. This nation – undivided by inequality, linguistic differences, and the intervention of religion – precedes individuals both historically and in right. And as we will see, this Charter of Values reawakens a debate dating back to the French Revolution, as to whether rights stand on their own, or are also found alongside duties, which might even take precedence over rights.

Reforming Public Institutions

Rather than convincing citizens of the need for a set of values as framework for individual rights and specifically for religious accommodations, as *Because We Believe in our Values* did, Bill 60 focuses on the practices that must be adopted by public institutions. Each must show religious neutrality and reflect the laicity of the state. In this *showing (faire preuve)* and *reflecting*, the bill demands more than passive compliance: the issue has to do with the manner in which the state presents itself and is perceived by its citizens, through public institutions. Each employee of the institutions of the state – and even of a private business under

contract with the state, if required by the public institution under contract (Article 10) – is thus seen as a representative of the state, that is, as providing an image for it. As a result, two duties are incumbent upon members of public organizations: the duties of religious neutrality and of reserve. These duties entail that no object that ostensibly demonstrates any religious affiliation can be worn by a member of a public organization while at work; and that unless the work demands it, the face cannot be veiled. Article 18 further stipulates that no accommodation can be made for these two duties.

This distinction clearly differentiates the hijab and chador from the niqab and burqa, which present concerns additional to the demonstration of religious belonging. Article 7 extends the obligation to unveil one's face to anyone receiving public services, although in some contexts it might be possible for a person to request an accommodation to receive services while her face remains veiled, but only if there are no concerns for security, for identifying a person, or for communication to take place at the appropriate level¹⁸. These criteria go beyond the four stated criteria for accommodations: that the request refers to article 10 of the Charter of Rights and Freedoms; that it requests the right to equality between women and men; that it is reasonable – *i.e.* that it does not impose an excessive constraint on others' rights or health; and that it respects the separate, neutral, and laic character of the state.

Duties and obligations also fall to the institutions themselves. Each must define its own policy as to how its own mission will be harmonized with the requirements of the Charter of Values, specifying the meaning of the duties of neutrality and of reserve of its employees. Aside from judges, mediators, and commissioners in state commissions, as well as employees of the Assemblée Nationale (but not its Members) and anyone who applies or executes any part of the law, only one specific public institution is targeted in Bill 60, which exemplify the intentions and worries behind the document. Chapter VII, comprised of articles 27 to 31, deals with daycare centres funded by the state. It is here that concerns about proselytism are at their highest: the duties of neutrality and reserve are also incumbent on daycare workers, and daycares cannot admit children on the basis of their learning of any religious practice or dogma, or seek to teach them – in other words, daycares are specifically targeted as an instance of a public institution where even passive proselytism could lead to the conversion of impressionable minds.

Here we see once again the instrumentalization of women in the debate and the confusion of the cultural, religious, and political dimensions of the decision for a woman to veil herself – as of most religious decisions regarding public behaviour and the modalities of how a person decides to appear to others. In all these respects, many perspectives are presented on the question, so as to allow for a debate. Yet this ideological pluralism remains limited, leaving a set of perspectives obscured: the perspectives of Muslim women who decide to veil themselves, for reasons that are at once personal, familial, communitarian, cultural, national, international, religious, and political. Here pluralism fails, in that the representation of the persons and groups whose behaviour and identity is being legislated fails to include their perspective and takes place for reasons and on the basis of values that are not their own, but still those of the legislating majority.

Conclusion

The Charter of Values is a particularly relevant example of two intertwined phenomena: the rise of a new conservative nationalist movement in Québec seeking to revive a cultural nationalism against civic nationalism and against the association between sovereignty and the left; and the questioning of established practices for “accommodations” and for transforming legislation and public policy, both by those in favour of integration through accommodation and by those in favour of a return to a more assimilative model. This renewed nationalism is broader than the movement in favour of the Charter. It developed as a response to the perceived limits of the civic nationalism of recent PQ leaders and of most intellectuals, based on a desire to affirm the value of cultural nationalism. It manifests itself not solely through a desire for sovereignty, but rather for a cultural form of national affirmation, as a response to the perception of a change in power relations among cultural groups that is blamed on Canadian individualist multiculturalism. Finally, against this perceived loss of influence of francophone Quebecers, this renewed nationalism adopts the political goal of defining more clearly and enshrining constitutionally a collectivist and intercultural political framework¹⁹.

The Charter of Values is thus an attempt to solve the issue once and for all by making it into an article of constitutional law, rather than one of constant negotiation. This temptation and these phenomena are not limited to Québec; they are part of tensions present in other societies

presenting similar characteristics. Conceptions of Canadian identity are also in conflict around the question of the place to give to the European roots of this identity in relation to the integration of non-Western cultures, as the relatively recent shift in the activities of the federal government away from presenting Canada as multicultural and toward presenting it as tied to the British Crown demonstrates (Abu-Laban, 2014; Frenette, 2014). The criteria for selecting immigrants are also changing, as the temporary foreign workers program is being favoured against a family-based model of permanent immigration (Ferrer et al., 2014; Hari, 2014). We can thus wonder what kind of collectivism is present in all demands being made of newcomers – even if they are presented in the conceptual vocabulary and grammar of Rawlsian political liberalism. In this broader context, the arguments developed by both sides of this debate are likely to reappear in new forms – as they already have in Québec, under the guise of debates around the number of immigrants to be welcomed and of the effect of immigration on language, or around radicalisation and the presentation of entire communities as forming political groups – and the debate can only be enriched by awareness and understanding of the outcome of this highly explicated and conceptual phase of the debate in Québec.

Notes:

¹ The author wishes to thank David Goa and Shauna Wilton for their invitations to speak about the Charter of Values as the debate was taking place, as well as James Gilbert, Alexander Carpenter and the anonymous reviewers for CPSR for their editing and comments on this paper.

² In order to avoid confusion with the other Charters existing in Québec, the expression “Charter of Values” will be maintained throughout, and will refer both to the government proposals published in September 2013 as *Document d’orientation* and *Parce que nos valeurs, on y croit*, as well as to *Projet de loi no. 60*, “Charte affirmant les valeurs de laïcité et de neutralité religieuse de l’État ainsi que d’égalité entre les femmes et les hommes et encadrant les demandes d’accommodement” introduced in the Assemblée Nationale on November 7, 2013. For the most part, titles will be translated into English whenever cited in the body of the text, for ease of reference.

³ The report constitutes in itself a remarkable work of political philosophy, and also led to books by each of the co-chairs that will remain central to the philosophical and political question of religion in the public sphere: Bouchard, 2012; Taylor, 2007.

⁴ For the reactions of the federal party leaders, see Geddes, 2013.

⁵ Gérard Bouchard notably argued that those ministers who had publicly supported the Charter ought to step down, as ought those who might have disagreed with it but had not opposed it, since the Charter brought the Parti Québécois toward “intolerance, hypocrisy, and amateurism,” taking on Duplessist measures, and discrediting politics in general in the eyes of the population (Bouchard, 2014).

⁶ Lefebvre (2015) points out the difficulties in referring to the Bouchard-Taylor report as representing a consensus, as the two commissioners arrived at a compromise between their respective positions, which themselves are more aligned with the positions of different groups within society. The position that results from the commission is then a compromise between these different positions, which itself is held by no one in particular and so unlikely to gain important support.

⁷ The Bouchard-Taylor Commission had suggested nine values, a list that religious and ethnocultural associations seemed to accept, while offering varying interpretations of these values and defending the needs to avoid interpreting them in a restrictive manner and to avoid instrumentalizing them. The arguments of these associations, in response to these values, tended to focus on the respect of individual rights and freedoms. (Rocher, 2015)

⁸ Because of the lack of gender neutrality of nouns such as “Québécois” which is masculine, the Charter follows a common trend in Québec French to refer to a group using the feminine first, and then the masculine, hence “Québécoises et Québécois” which is present throughout the Charter documents.

⁹ Similar arguments for an outright banning public face covering, having to do social cohesion, the capacity to look each other in the eye, and the duties of citizens, were made in France only a few years before the Charter of Values was drafted (Daly, 2015).

¹⁰ For an overview of the reactions to the Charter, see Radio-Canada, 2013c.

¹¹ We thus find among the signatories Jérôme Blanchet-Gravel (2014), who would soon publish a book attacking multiculturalism and specifically the place given to Islam by the left in Québec.

¹² The same argument is repeated by the Indépendantistes pour une laïcité inclusive, who speak of “a situation that leads to schizophrenia” (Indépendantistes pour une laïcité inclusive, 2013b: 14-15).

¹³ For a critical study of the genre of “Pulp nonfiction” in which these books might fall, see Abu-Lughod, 2013, 87-112.

¹⁴ Another such figure is Fatima Houda-Pépin, born in Morocco, who in the past had spoken publicly against the institution of Sharia tribunals in Ontario, who had proposed legislation to fight religious integristism, and who was excluded from the Liberal Party of Québec following her support for the Charter of Values. See Lajoie, 2014.

¹⁵ On the several distinct forms of nationalism, specifically as present in Québec, see Seymour, 2000.

¹⁶ It is likely that in this manner, this kind of collectivist approach misrecognizes and misunderstands the meaning religion has for those who wear veils just as much as liberal individualism does in focusing on individual choice.

¹⁷ Without entering into considerations having to do with the history of philosophy in Canada, it is relevant to point out that the Québec charter concerning rights and freedom addresses *the person*, rather than *individuals*. The term *person* has a philosophical history rooted in personalism and Thomistic Catholicism thought that separates it from liberal individualism in that the person is understood as being part of a larger whole from which it cannot be separated, and is seen as unable to be free if this larger whole is not free and unable to act justly if it does not act

toward the common good, which is also always its own good (as opposed to the individual good, which is separate from the common good and cannot lead to it).

¹⁸ On the conceptual difficulties of this requirement, see Nussbaum 2010a and 2010b.

¹⁹ The interculturalism present in the Charter is at odds however with the interculturalism developed by Gérard Bouchard, the outline of which can be found in Bouchard, 2011. What is more, Weinstock suggests that while interculturalism and multiculturalism differ in terms of social aspiration, which we could also see as a difference in political philosophies, in Québec they remain practically indistinguishable in terms of empirical facts, principles, and policies. However, the Bill shows that interculturalism and multiculturalism can be different in terms of policy, insofar as the introduction of the Charter expresses an aspiration toward a policy of interculturalism in Québec, which also includes Bill 101 and a reconceptualized and rewritten Charter of Rights and Freedom for the province. Interculturalism then would not be its own policy and aspiration; rather, it would be tied and be a subordinate part of a larger political project, just as those who reject multiculturalism point to the larger project of domination it enables. Indeed, contrary to Weinstock's argument (2013:107), the Charter displays a shared culture and identity as a policy objective.

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